

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

ALFONSO R. THOMPSON, SR.,

Plaintiff,

v.

No. CIV 14-1097 MCA/KBM

DET. R. LANDAVAZO, Primary Homicide,

Defendant.

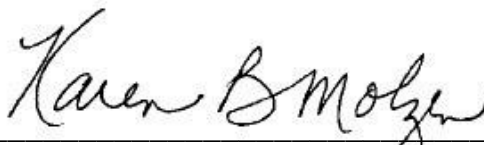
ORDER FOR MARTINEZ REPORT

This *pro se* prisoner civil rights matter is before the Court *sua sponte*. Under *Martinez v. Aaron*, 570 F.2d 317, 320 (10th Cir. 1978), this Court may order defendants to investigate the incident or incidents underlying Plaintiff's lawsuit and submit a report of their investigation in order to develop a factual or a legal basis for determining whether a prisoner plaintiff has a meritorious claim. See, e.g., *Gee v. Estes*, 829 F.2d 1005, 1007 (10th Cir. 1987). A *Martinez* Report may be used in a variety of contexts, including motion for summary judgment or *sua sponte* entry of summary judgment. When a *Martinez* Report is used for summary judgment purposes, the *pro se* plaintiff must be afforded an opportunity to present conflicting evidence to controvert the facts set forth in the report. *Hall v. Bellmon*, 935 F.2d 1106, 1109 (10th Cir. 1991).

Wherefore,

IT IS HEREBY ORDERED that Defendant file a *Martinez* Report in accordance with the instructions below:

1. Defendant's comprehensive *Martinez* Report shall address all of Plaintiff's allegations and should include, but is not limited to whether documents or other records pertaining to the events exist;
2. If documents and records do exist, Defendant shall include copies of them as attachments to the *Martinez* Report. Based on prior experience, the Court feels constrained to request that the attachments be arranged in a logical order. Simply copying jumbled prison records will not suffice. The Court also requests that the attachments be Bates-stamped or otherwise be clearly serially marked;
3. Defendants must provide affidavits to properly authenticate submitted documents, and may also submit other affidavits in support of the *Martinez* Report;
4. The submission of documents alone shall not be considered in compliance with this Order. Defendant is expected to also prepare the "report" portion of the *Martinez* Report that discusses the claims and the submissions that relate to them;
5. Given the detail required above, the Court will give ample time for the Defendants to accomplish this task. Defendants shall file and serve their *Martinez* Report no later than **Friday, December 11, 2015**;
6. Plaintiff shall file his response to the *Martinez* Report **(Defendant receives service electronically)** no later than **Monday, January 11, 2016**, and
7. Defendant shall file and serve his reply, if any, no later than **Monday, January 26, 2016**.



UNITED STATES CHIEF MAGISTRATE JUDGE

THE PARTIES ARE HEREBY GIVEN NOTICE that the *Martinez* Report may be used in deciding whether to grant summary judgment on Plaintiff's claims, whether by motion or *sua sponte*; as such, the parties should submit whatever materials they consider relevant to Plaintiff's claims. See *Hall*, 935 F.2d 1106.